

In the United States Court of Federal Claims
OFFICE OF SPECIAL MASTERS
No. 14-119V
(Not to be Published)

MICHAEL GRIESHOP,

Petitioner,

v.

SECRETARY OF HEALTH AND
HUMAN SERVICES,

Respondent.

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Special Master Corcoran

Filed: November 30, 2016

Decision; Attorney's Fees and
Costs; Tetanus-diphtheria-acellular
pertussis ("Tdap") Vaccine;
Shoulder Injury.

Maximillian J. Muller, Muller Brazil, LLP, Dresher, PA, for Petitioner.

Jennifer Leigh Reynaud, U. S. Department of Justice, Washington, DC, for Respondent.

DECISION AWARDING ATTORNEY'S FEES AND COSTS¹

On February 10, 2014, Michael Grieshop filed a petition seeking compensation under the National Vaccine Injury Compensation Program ("Vaccine Program").² Petitioner alleged that he suffered a left shoulder injury as a result of his May 15, 2012, receipt of the Tetanus-diphtheria-acellular pertussis ("Tdap") vaccine. Petition at 1 (ECF No. 1). The parties were able to reach an informal settlement agreement and requested that I issue a "15-Week" Order, which I did. ECF No. 28. The parties then filed their stipulation for an award of damages on July 28, 2016 (ECF No. 31), and I adopted the stipulation as my decision granting damages on the same day. ECF No. 32.

¹ Because this decision contains a reasoned explanation for my action in this case, I will post this decision on the United States Court of Federal Claims' website, in accordance with the E-Government Act of 2002, 44 U.S.C. § 3501 (2012). As provided by 42 U.S.C. § 300aa-12(d)(4)(B), however, the parties may object to the posted decision's inclusion of certain kinds of confidential information. Specifically, under Vaccine Rule 18(b), each party has 14 days within which to request redaction "of any information furnished by that party: (1) that is a trade secret or commercial or financial in substance and is privileged or confidential; or (2) that includes medical files or similar files, the disclosure of which would constitute a clearly unwarranted invasion of privacy." Vaccine Rule 18(b). Otherwise, the whole decision will be available to the public. *Id.*

² The National Vaccine Injury Compensation Program is set forth in Part 2 of the National Childhood Vaccine Injury Act of 1986, Pub. L. No. 99-660, 100 Stat. 3758, codified as amended, 42 U.S.C.A. § 300aa-10 to § 300aa-34 (2012).

Petitioner has now filed a motion for final attorney's fees and costs, dated November 30, 2016. ECF No. 37. Petitioner requests reimbursement of attorney's fees and costs in the total amount of \$29,941.77, representing \$27,420.50 in attorney's fees and \$2,521.27 in costs. *Id.* In addition, and in compliance with General Order No. 9, Petitioner represents that he has not incurred any out-of-pocket, litigation-related expenses in conjunction with this proceeding. *Id.*

Respondent filed a document reacting to Petitioner's Motion on the same day. ECF No. 38. Respondent asserts that "[n]either the Vaccine Act nor Vaccine Rule 13 contemplates any role for Respondent in the resolution of a request by a Petitioner for an award of attorney's fees and costs." *Id.* at 1. Respondent added, however, that she "is satisfied the statutory requirements for an award of attorneys' fees and costs are met in this case." *Id.* at 2. She did not raise any specific objections to the amount requested, and recommended that I exercise my discretion in determining a reasonable award for attorney's fees and costs. *Id.* at 3.

The Vaccine Act permits an award of reasonable attorney's fees and costs. Section 15(e). I have reviewed the billing records submitted with Petitioner's initial request, and based on my discretion and Vaccine Program experience, I find the requested hourly rates and work performed to be reasonable. I therefore approve the requested amount for attorney's fees and costs.

Accordingly, I hereby GRANT Petitioner's Motion for attorney's fees and costs. I award a total of **\$29,941.77** as a lump sum in the form of a check jointly payable to Petitioner and Petitioner's counsel, Mr. Maximillian J. Muller, Esq. Payment of this amount represents all attorney's fees and costs available under 42 U.S.C. § 300aa-15(e). In the absence of a motion for review filed pursuant to RCFC Appendix B, the clerk of the Court **SHALL ENTER JUDGMENT** in accordance with the terms of Petitioner's motion.³

IT IS SO ORDERED.

/s/ Brian H. Corcoran
Brian H. Corcoran
Special Master

³ Pursuant to Vaccine Rule 11(a), entry of judgment may be expedited by the parties' joint filing of notice renouncing the right to seek review.